

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ANTON PEREVOZNIKOV,
Petitioner,

v.

DONALD W. WYATT DETENTION
FACILITY; KRISTI NOEM,
*Secretary, Department of Homeland
Security*; CALEB VITELLO, *Acting
Director, U.S. Immigration and
Customs Enforcement*; PAMELA
BONDI, *United States Attorney
General*; and SIRCE C. OWEN, *Acting
Director, Executive Office for
Immigration Review*,
Respondents.

C.A. No. 25-cv-085-JJM-LDA

ORDER

Anton Perevoznikov has filed a petition for a writ of habeas corpus asking this Court to immediately release him from immigration detention or, in the alternative, to order a bond hearing before an immigration judge. ECF No. 1.

Mr. Perevoznikov, a citizen of Kazakhstan, came to the United States in 2006 on a J-1 visa. After marrying an American citizen, he petitioned to become a lawful permanent resident.¹ Meanwhile, Mr. Perevoznikov was convicted three times between 2011 through 2020: (1) he was convicted of receiving stolen property in New Jersey state court and placed on probation; (2) he was convicted of conspiracy to export defense articles in Pennsylvania federal court and sentenced to 4 years in

¹ Mr. Perevoznikov and his wife have since divorced.

federal prison; and (3) after his release from federal prison, Mr. Perevoznikov was convicted of exporting electronic devises to Russia in New York federal court and sentenced to 18 months in federal prison. Upon his release from his last prison sentence, Mr. Perevoznikov was turned over to the U.S. Immigration and Customs Enforcement (“ICE”) and charged with being removeable because of his convictions. An immigration judge eventually found him ineligible for release on bond. Mr. Perevoznikov appealed the bond determination to the Board of Immigration Appeals (“BIA”), which scheduled his appeal to be fully briefed about a month ago. ECF No. 7-5 at 5, ¶¶ 28-29.

In the meantime, before the BIA issues its decision on his appeal, Mr. Perevoznikov filed this habeas petition in federal court. In response to the habeas petition, the government asserts many reasons, both substantive and procedural, why the Court should deny the petition. ECF No. 7. First among these arguments is its position that Mr. Perevoznikov has not exhausted his administrative remedies. *See id.* at 9-10. Mr. Perevoznikov asserted in his petition and again responds that further administrative appeals would be futile. *See* ECF No. 1 ¶¶ 15-16; ECF No. 9 at 9-10.

There is no question that before filing a habeas petition a petitioner must exhaust all administrative remedies. The very issue Mr. Perevoznikov raises here is the issue pending before the BIA and all statutory and common-law reasons for requiring exhaustion of administrative remedies are present. Yet Mr. Perevoznikov argues that his BIA appeal of the Immigration Judge’s decision is not an

administrative remedy that can afford him any relief and therefore is futile because “the Board has previously held in precedential decisions that Immigration Judges must follow EOIR [Executive Office of Immigration Review] regulations, even where they conflict with statutes passed by Congress ... or the U.S. Constitution.” ECF No. 9 at 9.

The Court disagrees with Mr. Perevoznikov’s contention. First, precedential decisions he references do not represent that “the agency has no *power* to resolve in the applicant’s favor.” *Sousa v. I.N.S.*, 226 F.3d 28, 32 (1st Cir. 2000) (emphasis added). The BIA’s “power” is not questioned here. Second, the First Circuit reminds us that “the Supreme Court has said that merely because the agency has previously rejected an argument is no basis for failing to make the claim in one’s own case.” *Id.* (citing *United States v. L.A. Tucker Truck Lines, Inc.*, 344 U.S. 33, 37, 54 (1952)). Thus, because he has not exhausted his administrative remedies, and the issue he presents here is still pending before the BIA, the Court need not address any additional arguments. The Court DENIES Mr. Perevoznikov’s habeas petition without prejudice.

IT IS SO ORDERED.

s/John J. McConnell, Jr.

John J. McConnell, Jr.
Chief Judge, U.S. District Court

May 2, 2025